

REMARKS

Claim Rejections 35 USC 103

Claims 9-11, 13 and 14 are rejected under 35 USC 103(a) as being unpatentable over Abecassis (5,291,395) in view of Westbury et al. (6,873,963).

With respect to Claim 9 Abecassis discloses the use of a method for storing samples comprising the steps:

Providing identification numbers to each sample (col. 2, lines 47-53 and col. 3, lines 44-47);

Storing the sample (col. 9, lines 11-19);

Storing information about samples (col. 3, lines 52-57); and

sending samples to customer along with information about samples (col. 9, lines 11-19).

Col. 9 lines 11-19 do not teach that the samples are sent to the customer along with information about the samples. This section states that based upon the computer output generated by the computer, the computer system would automatically retrieve the particular wallcovering carriers which are directly provided to the customer. Nowhere does this section disclose sending information about the samples to the customer.

Abecassis discloses that the samples can be mailed from a warehouse, however, fails to disclose tracking delivery of the samples from a facility where it is stored to a final destination. Westbury discloses the use of a shipment tracking analysis and reporting system, that tracks a shipment to its final

destination (col. 2, lines 43-53). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Abecassis to include the tracking function of Westbury, in order to provide estimated arrival times for shipments and to evaluate performance of suppliers and carriers (see Westbury, col. 2).

Westbury discloses a tracking system to reduce manufacturing costs. This cost is dependent on lead time. This system is used to predict supplier delivery times. In the present invention no such delivery times are being predicted. The goods are samples, and they are not being used in a manufacturing process. Further, Abecassis also relates to samples, and there is no teaching or any understanding in the art that there is a problem with not tracking samples. Therefore, there is no teaching to combine the references.

Abecassis disclose the database storing information for each sample, and whenever a user receives the same (the Examiner considers this to be tracking of the samples that are stored, col. 3, lines 29-37), Abecassis also discloses the use of a warehousing system which stores the samples (Col. 9, lines 11-19). However, Abecassis does not explicitly disclose informing a company when samples need to be replenished in the facility. While Abecassis does not disclose informing a company when samples need to be replenished in the facility, Official notice is taken that informing a supplier of low inventory in order to the inventory to be replenished is old and well known. When a store or a retailer is out of stock of an item, the retailer must contact the supplier to order more

items, therefore, notifying the supplier to replenish the inventory. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to inform a company when the samples need to be replenished. One would have been motivated to inform a company when inventory levels are low, so that the inventory does not run out and become out of stock.

The official notice that the Examiner is talking about relates to a finished product for sale. In the present invention, the claims relate to samples, and therefore there is no Official Notice in notifying the supplier that their samples are running in short supply.

With respect to Claim 10: Westbury discloses the tracking system tracks shipments and notifies each party in the shipping transaction of tracking data, such as estimated time of arrival, (col. 3, lines 37-48).

For the reasons stated above for claim 9, claim 10 is not obvious over the prior art.

With respect to Claim 14, Abecassis discloses a brochure is sent to the customer, which the Examiner considers to be collateral material (col. 3, lines 53-66).

Column 3 lines 53-66 does not disclose that a brochure is sent to a customer. This section states that the numbers assigned to a pattern could represent information such as vendor and book identity. Therefore claim 14 is

not taught. For this reason and the reasons stated above for claim 9, claim 14 is not obvious over the prior art.

Claim 12 is rejected under 35 USC 103(a) as being unpatentable over Abecassis (5,291,395) and Westbury et al. (6,873,963) in further view of Maggard et al. (6,021,362).

With respect to Claim 12, Abecassis discloses storing information about the samples in a database, but does not specifically disclose that information containing when the sample is not longer viable. Maggard discloses the use of the items containing expiration dates of the samples, i.e., how long they are viable, (col. 11, lines 49-53). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Abecassis to include expiration dates of samples, as disclosed by Maggard, so that expired or outdated samples are not being dispensed or given to consumers (see Maggard, cols. 11 and 12).

The section referred to by the examiner does not teach the use of items containing expiration dates of the samples. Col. 11 lines 49-53 teaches that a VendCodes given to identify a sample can expire. This does not teach that the sample expires, but that a vendcode number expires. For this reason and the reasons stated for claim 9, claim 12 is not obvious over the prior art.

With respect to applicant's arguments with regards to the Official Notice: The Examiner has made official notice that informing a supplier of low inventory in order to be replenished is old and well known in the art. The applicant has

not argued that this is not well known in the art, but rather has argued that the limitation of the claim of a third party facility where the samples are being stored to be sent out to customers, and where the samples are replenished is not known in the art. The claims above have been rejected based on a 103. The above rejection teaches the use of storing samples, as well as third party warehousing. The Examiner has stated that the notification to suppliers that inventory is low, and needs replenishing. In the present invention, the samples are considered to be inventory. Therefore, the combination of Abecassis, Westbury and the Examiner's official notice, will teach the use of sending a notification when samples need to be replenished.

Applicant believes that the application is now in condition for allowance.

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